

ORDINANCE NO. 2785 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AMENDING GLENDALE CITY CODE, CHAPTER 33 (WATER, SEWERS AND SEWAGE DISPOSAL) BY ADDING AN ARTICLE VI RELATING TO STORM WATER POLLUTION CONTROL; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. That Glendale City Code, Chapter 33 (Water, Sewers and Sewage Disposal) is hereby amended by adding an Article VI entitled, "Storm Water Pollution Control" to read as follows:

ARTICLE VI. STORM WATER POLLUTION CONTROL

DIVISION 1. GENERAL PROVISIONS

Sec. 33-290. Purpose and policy.

(a) This article sets forth requirements for the control of pollutants that are or may be discharged to the public storm drain system. The purpose is to improve the quality of storm water discharges and to enable the city to comply with all applicable state and federal laws, including but not limited to, the Clean Water Act (33 United States Code § 1251 et seq.), the National Pollutant Discharge Elimination System Regulations (40 Code of Federal Regulations Part 122), and the Arizona Pollutant Discharge Elimination System Regulations (Arizona Administrative Code, Title 18, Chapter 9, Article 9). The objectives of this article are:

- (1) To reduce the discharge of pollutants from our public storm drain system into receiving waters, waterways, and groundwater;
- (2) To control the discharge to the public storm drain system resulting from spills, dumping, or disposal of materials other than storm water;
- (3) To enable the city to comply with the conditions of its National Pollutant Discharge Elimination System storm water permit or Arizona Pollutant Discharge Elimination System storm water permit;
- (4) To prevent discharges that could cause or contribute to damage to the public storm drain system;
- (5) To promote the proper management of hazardous materials and other wastes to prevent their discharge into the public storm drain system;

- (6) To reduce pollutants in storm water to the maximum extent practicable; and
- (7) To protect the public health and the environment.

(b) This article establishes discharge prohibitions; authorizes the identification of controls to reduce the discharge of pollutants that may be required; provides for necessary inspections, monitoring, compliance, and enforcement activities; and establishes administrative review procedures.

Sec. 33-291. Administration.

The City Manager is delegated the authority to exercise the powers and perform the duties set forth in this article and to administer and enforce provisions of this article.

Sec. 33-292. Abbreviations.

The following abbreviations, when used in this article, shall have the designated meanings:

ADEQ - Arizona Department of Environmental Quality
AZPDES - Arizona Pollutant Discharge Elimination System
CFR - Code of Federal Regulations
EPA - United States Environmental Protection Agency
NPDES - National Pollutant Discharge Elimination System

Sec. 33-293. Definitions.

For the purposes of this article, the following words and terms shall be defined as follows:

Administrator: The City Manager or a duly authorized designee.

Arizona Department of Environmental Quality (ADEQ): The state agency charged with enforcement of environmental laws and regulations.

Arizona Pollutant Discharge Elimination System (AZPDES) storm water permit: A permit issued by ADEQ which authorizes the discharge of storm water pursuant to Arizona Administrative Code R18-9-A902.

Best Management Practices (BMPs): Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to storm water. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from outdoor storage areas.

Clean Water Act: The federal water pollution control act, as amended, 33 United States Code § 1251 et seq.

Discharge: Any spilling, leaking, pumping, pouring, emitting, emptying, injecting, placing, releasing, leaching, dumping, or disposing into or on any land in a manner that may cause pollution.

Environmental Protection Agency (EPA): The federal agency charged with enforcement of environmental laws and regulations.

National pollutant discharge elimination system (NPDES) storm water permit: A permit issued by EPA which authorizes the discharge of storm water pursuant to the Clean Water Act § 402 (33 U.S.C. § 1342).

Notice of Intent (NOI): A form submitted to ADEQ notifying of person's intent to be covered under a separate AZPDES storm water permit, as required by federal and state law.

Person: Any individual, partnership, co-partnership, firm, company, corporation, limited liability company, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns.

Pollutant: Fluids, contaminants, toxic wastes, toxic pollutants, dredged spoil, solid waste, substances and chemicals, pesticides, herbicides, fertilizers and other agricultural chemicals, incinerator residue, sewage, garbage, sewage sludge, munitions, petroleum products, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and mining, industrial, municipal and agricultural wastes or any other liquid, solid, gaseous or hazardous substances.

Pollution: The presence of a pollutant(s) on land or in storm water.

Premises: Any building, lot, parcel, real estate, or land or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Public storm drain system: All or any part of the publicly-owned and maintained roads, streets, catch basins, curbs, gutters, ditches, man-made channels, storm drains, and dry wells located within public easements, right-of-way, parks, common areas, retention areas, or other publicly-owned or maintained real property designed or used for collecting, holding, or conveying storm water.

Release: Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, placing, leaching, dumping, or disposing into or on any land in a manner that can cause pollution.

Storm water: Storm water runoff, surface runoff, and drainage.

Sec. 33-293--33-299. Reserved.

**DIVISION 2. - PROHIBITIONS AND CONTROLS TO REDUCE
THE DISCHARGE OF POLLUTANTS IN STORM WATER**

Sec. 33-300. Prohibitions of non-storm water discharges to the public storm drain system; exemptions.

(a) Unless expressly authorized or exempted by this article, no person shall cause or allow the release to a public right-of-way or public storm drain system of any substance that is not composed entirely of storm water.

(b) Unless expressly authorized or exempted by this article, no person shall use, store, spill, dump, or dispose of materials in a manner that those materials could cause or contribute to the addition of pollutants to storm water.

(c) The following discharges are exempt from the prohibition set forth in subsections (a) and (b) of this section provided they are not significant sources of pollutants to waters of the United States:

- (1) Discharges authorized by a separate NPDES or AZPDES storm water permit
- (2) The following categories of non-storm water discharges are permissible unless otherwise prohibited under subsections (d), (e), or (f):
 - (a) Water line flushing and other discharges from drinking water sources;
 - (b) Landscape irrigation and lawn watering;
 - (c) Irrigation water;
 - (d) Diverted stream flow;
 - (e) Rising groundwater;
 - (f) Uncontaminated groundwater infiltration;
 - (g) Uncontaminated pumped groundwater;
 - (h) Uncontaminated foundation and footing drains;
 - (i) Uncontaminated water from crawl space pumps;
 - (j) Air conditioning condensation and evaporative cooler run-off;
 - (k) Natural springs;
 - (l) Individual residential car washing;
 - (m) Flows from riparian habitats and wetlands, as those areas are designated under applicable federal and state laws;
 - (n) Flows resulting from fire fighting activities;
 - (o) Discharges from potable water sources; or
 - (p) Any other activity that is exempted under the city's NPDES OR AZPDES storm water permit.

(d) No person shall discharge to a publicly owned right-of-way or the public storm drain system any exempted discharge under subsection (c) paragraph (2) of this section if the administrator identifies and provides written notice to the person that the discharge has the potential to be a source of pollutants to receiving waters, waterways, or groundwater.

(e) No person shall discharge to the public storm drain system where such a discharge may result in or contribute to a violation of the NPDES or AZPDES storm water permit issued to the city, either separately considered or when combined with other discharges. Liability for any such discharge shall be the responsibility of the person causing or responsible for the discharge.

(f) No person shall establish, use, maintain, or continue any connection to the public storm drain system which has caused or will likely cause a violation of this section. Any connection that was permitted or authorized by a governmental entity with jurisdiction and authority will be discontinued upon thirty (30) days written notice by the administrator to: (a) the last known address of the owner of the property and by posting on the property; or (b) the person maintaining the connection. This prohibition is retroactive and shall apply to any connection that was made in the past, regardless of whether it was made under a permit or other authorization, or whether it was permissible under the law or practices applicable or prevailing at the time of the connection.

Sec. 33-301. Operating facilities or activities.

(a) All persons owning or operating premises or engaged in activities which are required by federal or state law to submit to EPA and/or ADEQ a Notice of Intent (NOI) to comply with an NPDES or AZPDES storm water permit shall provide a copy of such notice to the administrator upon request. Facilities required to apply for a storm water permit are identified in 40 C.F.R. 122.26(b)(14). Facilities that qualify for a conditional exclusion for "no exposure" under 40 C.F.R. 122.26 (g) shall submit a copy of the signed certification to the administrator upon request.

(b) All persons engaged in activities which will or may reasonably be expected to result in pollutants entering the public storm drain system shall undertake best management practices (BMPs) to minimize such pollutants, shall provide protection from accidental discharge of pollutants to the public storm drain system and comply with the cleanup and notification requirements of this article. Such measures shall include the requirements imposed by federal, state, county, or local authorities. BMPs are site-specific and are described in the document "Storm Water Management for Industrial Activities: Developing Pollution Prevention Plans and Best Management Practices" (EPA 832-R-92-006) or other guidance documents available from EPA, Maricopa County Flood Control District, and/or ADEQ.

(c) If a BMP is required by the administrator to prevent a pollutant from entering the public storm drain system, the person shall implement the BMP in the timeframe deemed reasonable by the administrator. The person receiving the notice of such a requirement may petition the administrator to reconsider the application of the BMP to the premises or activity. The written petition must be received within ten (10) working days setting forth any reasons and proposed alternatives. The administrator will act within thirty (30) days of the petition. If no

action is taken by the administrator, the petition is approved. If the administrator denies the petition, and action is not taken by the person within the required timeframe, failure to implement the BMP is subject to violation. If the person is unable to implement the BMP within the specified timeframe, an extension may be requested from the administrator. To receive an extension, the person must submit a written request identifying why the person cannot meet the timeframe, submit documentation to demonstrate that efforts have been made to implement the BMPs (i.e., procurement documentation for parts ordered, evidence that technology is not available, etc.), and provide a schedule for implementation of the BMPs. Granting of the extension is subject to the administrator's discretion.

Sec. 33-302. Construction sites.

(a) All persons engaged in construction activities who are required by federal or state law to submit to EPA and/or ADEQ a Notice of Intent to comply with an NPDES or AZPDES storm water permit, shall provide the city with copies of the NOI and the Authorization Document issued by ADEQ prior to issuance of the building or construction permit. Construction activities that will disturb one acre or more of land area or smaller land areas if they are part of a larger common plan of development or sale are required to apply for a storm water permit [40 C.F.R. 122.26(b)(15)].

(b) Any person performing construction shall not cause or contribute to a violation of the AZPDES storm water permit issued to the city. Liability for any such discharge shall be the responsibility of the person causing or responsible for the discharge. Any person performing construction shall undertake BMPs to minimize pollutants (including sediments) from leaving the construction site, shall provide protection from accidental discharge of pollutants to the public storm drain system, and comply with the cleanup and notification requirements of this article. Site operators shall ensure erosion and sediment control, control waste, and properly dispose of wastes, such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality. Such measures shall include the requirements imposed by federal, state, county or local authorities. BMPs are site-specific and are described in the document "Storm Water Management for Construction Activities: Developing Pollution Prevention Plans and Best Management Practices" (EPA 832-R-92-005) or other guidance documents available from EPA, Maricopa County Flood Control District, and/or ADEQ.

(c) If the administrator determines that pollutants may enter the public storm drain system from construction activities at a site less than one acre in size, the administrator may require site-specific BMPs be submitted and approved by the administrator prior to issuance of a construction permit. Such BMPs shall be implemented during construction activity.

(d) If a BMP is required to prevent a pollutant from entering the public storm drain system from a construction site, the administrator may order construction activities to cease until appropriate BMPs are in place. A person may petition the administrator to reconsider the application of the BMP to the premises or activity by submission of a written petition that sets

forth any reasons and proposed alternatives; however, construction activities shall not commence until the administrator approves the BMPs. The administrator will act within thirty (30) days of receipt of the petition. If no action is taken by the administrator, the petition is approved.

Sec. 33-303. Post-construction.

Property owners or operators shall ensure proper operation and maintenance of post-construction storm water runoff control mechanisms, including but not limited to retention basins, drywells, scuppers, and other measures implemented or installed at the site to control or direct storm water runoff. Changes or alterations to storm water mechanisms or storm water management agreements shall not be permitted without formal review and written approval by the administrator.

Sec. 33-304. Cleanup and notification requirements.

(a) As soon as any owner or operator has actual or constructive knowledge of any discharge which may result in pollutants entering the public storm drain system, such person shall promptly take all necessary steps to ensure the discovery of the source and the extent and proceed with containment and cleanup of such discharge.

(b) The owner or operator shall notify the administrator of the discharge in both of the following manners:

- (1) By telephone within 24-hours or by 12:00 noon of the next work day if knowledge is received on a weekend or holiday. If there is a public safety or health issue, call 9-1-1; and
- (2) By written report submitted to the city within five (5) days identifying the discharge source, extent, pollutant, measures taken to mitigate the discharge, and preventative measures put in place to prevent a subsequent discharge.

The phone number and address for reporting will be maintained on the city's website under storm water information.

(c) Upon request by the administrator, the owner or operator shall submit a plan that demonstrates how the cleanup of the discharge will be conducted. Cleanup of the discharge shall not begin until the plan is approved by the administrator.

(d) Cleanup of discharges to the public storm drain system will be conducted by the city unless an alternative plan for cleanup is approved by the administrator.

(e) The owner or operator is responsible for all costs associated with the containment and cleanup of any discharge, including any costs borne by the city for cleanup of the public storm drain system.

Sec. 33-304--33-309. Reserved.

DIVISION 3. - COMPLIANCE MONITORING

Sec. 33-310. Inspection and sampling; right of entry.

(a) Upon presentation of credentials and at all reasonable or necessary hours, all authorized employees of the city shall have access to all premises and to all records pertaining to those premises for purposes of ensuring compliance with this article. Inspection, interviewing, copying, sampling, photographing, and other activities conducted on the premises shall be limited to those which are reasonably needed by the city in determining compliance with the requirements of this article. All persons shall allow such activities under safe and nonhazardous conditions with a minimum of delay.

(b) In addition to those activities described in subsection (a) of this section, authorized city employees shall engage in monitoring necessary to ensure compliance with this article. The administrator may establish on premises such devices as the administrator reasonably determines are necessary to conduct sampling or metering operations. Such devices shall be installed so as to minimize the impact on the owner and occupant of the premises. During all inspections as provided in subsection (a) of this section, authorized city employees may take any samples necessary to aid in the pursuit of the inquiry or in the recordation of the activities on the premises.

(c) The administrator may order any person engaged in any activity or owning or operating on any premises which may cause or contribute to discharges of pollutants to the public storm drain system in violation of this article to undertake such monitoring activities and analyses and furnish such reports as the administrator reasonably may specify. The costs of such activities, analyses, and reports shall be borne by the recipient of the order.

(d) If the administrator has been refused access to any premises, and is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect, interview, copy, photograph or sample as part of an inspection and sampling procedure of the city designed to determine compliance with the requirements of this article or any related laws or regulations, or to protect the environment and the public health, safety and welfare of the community, then the administrator may seek issuance of an administrative search warrant from the city municipal court.

DIVISION 4. - ENFORCEMENT

Sec. 33-311. Purpose.

The purpose of this division is to ensure compliance with this article and practicable BMPs required by the administrator, to cease/discontinue pollutant discharges, to provide for civil penalty actions in municipal court, or to institute actions through the City Attorney in the appropriate court for civil or criminal enforcement of this article.

Sec. 33-312. Enforcement Plan.

(a) The administrator shall develop an Enforcement Response Plan (ERP) that meets the requirements of the AZPDES or NPDES storm water permit issued to the city and the requirements of this article. The ERP will include:

- (1) the authority for the administration to issue notice of violation to person who violated any provision of this article;
- (2) the authority for the administrator to enter into consent orders, assurances of voluntary compliance, negotiated settlement agreements or other similar documents establishing an agreement with any person responsible for noncompliance;
- (3) the authority for the administrator to issue a cease and desist order direct a person to immediately comply with all requirements and take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation;
- (4) criteria for imposing administrative fines and method for calculating the fines;
- (5) and other provision necessary to further the purpose of this division as set forth in Sec. 33-311.

(b) The ERP must be approved by the administrator and posted on city's website.

Sec. 33-313. Civil and Criminal Penalties.

(a) A person who violates any requirement of this article or any applicable NPDES or AZPDES storm water permit condition shall be civilly liable to the city for a sum not to exceed \$2,500 per day for each violation.

(b) Any person found to be liable for a discharge that results in violation of the NPDES or AZPDES permit issued to the city as described under Sec. 33-300(e), may be held responsible for reimbursement to the city for any civil fines or penalties received by the city for such violations.

Sec. 33-314. Criminal Sanction.

(a) A person commits unauthorized non-storm water discharges to the public storm drain system by knowingly causing, permitting, facilitating, aiding, or abetting any act prohibited in Sec. 33-300(a), (b), (d), and (e).

(b) Unauthorized non-storm water discharges to the public storm drain system is a class 1 misdemeanor.

Sec. 33-315. Injunctive relief.

When the administrator finds that a person has violated, or continues to violate, any provision of this article or any related laws or regulations, or that the person's past violations are likely to recur, the city may petition the Superior Court of Arizona, Maricopa County, through the City Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of any order or other requirement imposed by this article on activities of the person. The city may also seek such other action as is appropriate for legal or equitable relief.

Sec. 33-316. Remedies non-exclusive.

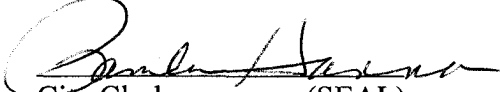
The remedies provided for in this article are not exclusive. Each day's noncompliance constitutes a new violation. The city may take any, all or any combination of these actions against a noncompliant person.

SECTION 2. That the provisions of this ordinance shall become effective thirty (30) days after passage of this ordinance by the Glendale City Council.

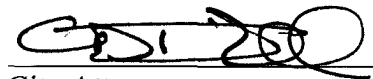
PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 11th day of October, 2011.


MAYOR

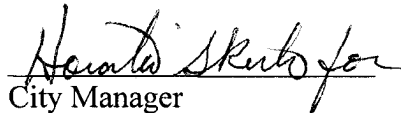
ATTEST:


City Clerk (SEAL)

APPROVED AS TO FORM:


City Attorney

REVIEWED BY:


City Manager